

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GUIRGUIS, a.k.a. GEORGE, EL-SHAWARY,
a Washington resident,

Plaintiff,

v.

U.S. BANK NATIONAL ASSOCIATION as
Trustee for GSR MORTGAGE LOAN TRUST
2006-4F MORTGAGE PASS THROUGH
CERTIFICATE SERIES 2006-4F *et al.*,

Defendants.

CASE NO. C18-1456-JCC

ORDER

This matter comes before the Court on Plaintiff's motion for leave to file a second amended complaint (Dkt. No. 41). When deciding whether to grant leave to amend under Federal Rule of Civil Procedure 15(a)(2), courts consider four factors: (1) undue delay, (2) bad faith, (3) prejudice to the opposing party, and (4) futility. *Griggs v. Pace Am. Group, Inc.*, 170 F.3d 877, 880 (9th Cir. 1999). Those factors are weighed "with all inferences in favor of granting the motion" because Rule 15 instructs that "court[s] should freely give leave when justice so requires." *See* Fed. R. Civ. P. 15(a)(2); *Griggs*, 170 F.3d at 880.

Defendants do not argue that these factors weigh against granting leave; indeed, Defendants have not filed any papers in opposition to Plaintiff's motion. The Court construes Defendants' decision to not file opposition papers "as an admission that the motion has merit."

1 *See* W.D. Wash. Local Civ. R. 7(b)(2). The Court also independently finds that granting leave is
2 appropriate.¹ The Court therefore GRANTS Plaintiff's motion for leave to file a second amended
3 complaint (Dkt. No. 41). However, the Court ORDERS Plaintiff to file a revised amended
4 complaint that conforms with the Court's recent order granting in part Defendants' motion for
5 judgment on the pleadings. (*See* Dkt. No. 51 at 10) (dismissing Plaintiff's 12 U.S.C. § 2607
6 claims against Nationstar and Xome, Plaintiff's 12 U.S.C. § 2605(e) claim against Nationstar,
7 Plaintiff's FDCPA claims, and Plaintiff's negligent misrepresentation claim against Xome).
8 Plaintiff must file the revised amended complaint within 21 days of the date of this order.

9 DATED this 9th day of July 2020.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE

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¹ Although the Court grants Plaintiff leave to amend his complaint to add McCarthy & Holthus L.L.P. ("M&H") as a defendant, the Court makes no finding as to whether Plaintiff's claims against M&H are meritorious. Once M&H has been served, M&H is free to seek dismissal of any or all of the claims against it.